

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:18-cv-162-FDW**

MARCUS A. THORPE,)	
)	
Plaintiff,)	
)	
vs.)	<u>ORDER</u>
)	
A. GOWANS, et al.,)	
)	
Defendants.)	
)	

THIS MATTER is before the Court on the North Carolina Department of Public Safety's ("NCDPS") sealed Notice, (Doc. No. 12), informing the Court that it has been unable to procure a waiver of service of process for Defendants **Anita J. Gowans, Phillip A. Carswell, Curtis D. Sauberan, David A. Stephens, and Robert J. Virtue**.

NCDPS has provided Defendants Gowans, Carswell, Sauberan, Stephens, and Virtue's last known addresses under seal. The Clerk of Court is directed to notify the U.S. Marshal that Defendants Gowans, Carswell, Sauberan, Stephens, and Virtue need to be served with the summons and Complaint in accordance with Rule 4 the Federal Rules of Civil Procedure. If Defendants Gowans, Carswell, Sauberan, Stephens, and Virtue cannot be served at the addresses provided by the NCDPS, the U.S. Marshal shall be responsible for locating their home addresses so that they may be served. See 28 U.S.C. § 1915(d) (in actions brought *in forma pauperis* under § 1915(d), "[t]he officers of the court shall issue and serve all process, and perform all duties in such cases"); Fed. R. Civ. P. 4(c)(3) ("At the plaintiff's request, the court may order that service be made by a United States Marshal or deputy marshal or by a person specially appointed by the court. The court must so order if the plaintiff is authorized to proceed *in forma pauperis* under 28

U.S.C. § 1915...."). If the U.S. Marshal is unable to obtain service on Defendants Gowans, Carswell, Sauberan, Stephens, and Virtue, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service. The U.S. Marshal shall not disclose Defendants' home addresses to the *pro se* incarcerated Plaintiff and shall file any document containing such addresses under seal.

The Clerk of Court will be ordered to correct the Defendants' names in the record.

IT IS THEREFORE ORDERED that:

- (1) The U.S. Marshal shall use all reasonable efforts to locate and obtain service on Defendants **Gowans, Carswell, Sauberan, Stephens, and Virtue**. If the U.S. Marshal is unable to obtain service on Defendants Gowans, Carswell, Sauberan, Stephens, and Virtue, the U.S. Marshal shall inform the Court of the reasonable attempts to obtain service.
- (2) The Clerk is respectfully instructed to mail a copy of the Complaint, (Doc. No. 1), the Sealed Notice containing Defendant's last known address, (Doc. No. 12), and this Order to the U.S. Marshal.
- (3) **IT IS FURTHER ORDERED** that the Clerk of Court is instructed to substitute the parties' names as follows:

Anita J. Gowans for "A. Gowans"

Sgt. Derrick Copeland for "John Does 1-5"

David J. Davis for "John Does 1-5"

Christopher Johnson for "John Does 1-5"

Sgt. Joshua T. Quinn for "John Does 1-5"

John F. Snyder for "John Does 1-5"

Nathan E. Wyatt for “John Does 1-5”

Phillip A. Carswell for “John Does 1-5”

Curtis D. Sauberan for “John Does 1-5”

David A. Stephens for “John Does 1-5”

Robert J. Virtue for “John Does 1-5”

Signed: January 29, 2019



Frank D. Whitney
Chief United States District Judge

